

ORIGINAL



0000199196

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2019 JUL 25 P 3: 56

Barbara Lockwood
Vice President
Regulation

Mail Station 9040
PO Box 53999
Phoenix, Arizona 85072-3999
Tel 602-250-3361
Barbara.Lockwood@aps.com

July 25, 2019

Arizona Corporation Commission

DOCKETED

JUL 25 2019

DOCKETED BY

aa

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

RE: Comments of Arizona Public Service Company (APS or Company)
Staff Report and Draft Rules for Retail Electric Competition
Docket No. RE-00000A-18-0405

APS appreciates the opportunity to provide comments on the Staff Report and Draft Rules for Retail Electric Competition (Draft Rules) and the larger issue of retail competition as proposed by Commissioner Olson in his recent letter. For the reasons noted by APS at the initial Commission workshop on retail electric competition in December 2018, and in prior Commission discussions, the Company continues to believe that retail electric competition is not in the best interest of its customers or the state of Arizona. The Draft Rules and Commissioner Olson's proposal represent a significant shift in state policy and will require a thoughtful process for the Commissioners, Staff and parties to consider.

Arizona's economy is experiencing tremendous growth. Our state currently benefits from an increasingly clean energy portfolio and great reliability. Additionally, a number of innovations in the energy marketplace are occurring. For example, Arizona utilities are collaborating with other utilities across the west to create more efficient wholesale markets, which are significantly benefiting all customers. The Energy Imbalance Market (EIM), a real-time energy market, continues to reduce costs for all consumers and helps integrate growing amounts of renewable generation.¹ These same utilities are also in the early stages of exploring a day-ahead market that could bring additional customer benefits. Neither of these market structures could support the type of retail competition proposed in the Draft Rules or as envisioned by Commissioner Olson without the additional structure of a Regional Transmission Operator (RTO) or Independent System Operator (ISO). APS has also made a significant commitment to battery storage as part of a clean energy future based on Arizona's current market structure. The viability of both the markets (EIM and day ahead) and battery efforts would have to be reconsidered as we work through this renewed effort for retail competition. Any move toward retail electric competition

¹ EIM has provided substantial benefits since its implementation in 2014. (CAISO Western EIM Benefits Report, First Quarter 2019)

must consider how benefits of the current system, current innovations and clean energy policy initiatives would be impacted.

As Staff notes, many substantial changes have occurred in the electric industry since the Commission's original competition rules went into effect. Technology, the marketplace, the availability of renewable resources (including customer-sited and associated net metering frameworks), customer interests, western energy markets and the intricacies of grid interoperability have changed significantly. The electric industry has evolved in ways that were unforeseen just ten short years ago.

The Draft Rules contain significant gaps that can diminish reliability and conflict with other beneficial innovations taking place today in the state of Arizona, which are outlined below. We join others in encouraging the Commission to take the necessary time to ensure a full understanding of the potential impacts on Arizona consumers and the state's economy.

As the Commission moves forward in determining whether retail electric competition is in the public interest, APS offers the following initial comments.

Conflicts remain with the Arizona Constitution and Arizona state law.

The Draft Rules strike some portions of the original rules that were declared unconstitutional by the Arizona Court of Appeals in 2004,² and include minor revisions to others. These revisions in the Draft Rules, although intended to remove constitutional barriers, are not robust enough to meet the constitutional requirements of just and reasonable rates that consider the fair value of the provider's assets. Commissioner Olson's proposal raises the same constitutional issues that would have to be addressed by the Commission.

Additionally, the Draft Rules contemplate the creation of municipal Community Choice Aggregators (CCAs) not previously considered in the rules or embodied in Arizona law. CCAs in other states have been created through legislative enactments, not by Commission rules. The legal authority of the Commission to take this step is questionable at best. If the Commission chooses to move forward with rules that incorporate CCAs, numerous conflicts with existing state law must be resolved.

Reliability is jeopardized.

The Draft Rules fail to address reliability. Neither does the proposal from Commissioner Olson address reliability nor identify who would have responsibility for ensuring resource adequacy.

Under the Draft Rules, the Commission would retain control over resource planning for jurisdictional utilities in the state. If this is the case, and retail competition materializes in Arizona, then the vast majority of retail electric customers would be left without reliability assurance because it appears an Electric Service Provider would have no requirement to engage in resource planning or to acquire capacity sufficient to maintain minimal levels of resource adequacy. To achieve such resource adequacy, all

² *Phelps Dodge v. Arizona Elec. Power Coop.*, 207 Ariz. 95, 83 P.3d 573 (App. 2004).

providers must be required to participate in the Commission's resource planning process and accept, in some manner, financial responsibility for reliability.

Texas often is cited as a successful example of retail competition. However, the Electric Reliability Council of Texas (ERCOT) is forecasting an 8.5% reserve margin for the summer of 2019. This is significantly below standard utility reserve margin planning levels across the country. Unfortunately, this is not new for Texas customers in ERCOT, who continue to be exposed to the risk of rolling blackouts and brownouts. California, in response to a similar concern, is considering a law that would allow a state agency to procure energy resources to meet the state's climate, clean energy and reliability goals due to concerns that the proliferation of CCAs and intermittent resources in the state will cause a detrimental decline in reliability and resource adequacy in the near future.

No state has implemented retail competition without the creation of an RTO/ISO.

An RTO or ISO is necessary to create a robust retail market.³ Arizona may consider creating its own, but the relatively modest scale of an Arizona-only market would raise concerns with the Federal Energy Regulatory Commission (FERC) that the market could not produce just and reasonable rates. Therefore, an Arizona-only market is unlikely. Arizona utilities would likely need to join an existing RTO or ISO, or form a new multi-state RTO. The most likely choice would seem to be the California Independent System Operator (CAISO) for its proximity and the size of the market.

In any event, if this Commission adopts the Draft Rules proposed by Staff or Commissioner Olson's proposal, it would lose control over resource planning, resource type, and generation price charged to customers who switch to competitive suppliers. Regulation of generation resources serving retail customers would transition from the Commission to FERC. In essence, a move toward retail competition is re-regulation with regional or federal entities having much more influence on the Arizona energy industry. The Commission would arguably be abdicating some of its responsibilities under the state Constitution.

This is a much different approach than the market innovations discussed earlier in our comments where the Commission would retain the full authority over resource and transmission planning. The EIM and the potential day-ahead markets are being designed with the intent to avoid the complications of joining a RTO/ISO and the subsequent loss of state authority, which the Draft Rules compel.

Retail competition conflicts with a number of energy policies the Commission is currently considering as well as energy innovations taking place today.

The Commission is currently considering a number of important reforms to its energy policies including renewable and clean energy rulemakings, deployment of infrastructure to support electric vehicles, demand response programs and PURPA, among others. Retail competition conflicts with each of these policies and would

³ The EIM is not a sufficient market structure to support retail competition; indeed, the introduction of retail competition may be incompatible with participation in EIM by Arizona utilities.

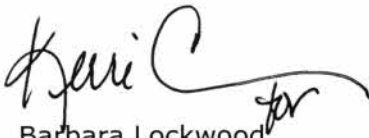
require, at a minimum, reconsideration of those rules and the prospect that it may be more difficult to achieve some of these goals.

In particular, the ability to reach the proposed clean energy goals would become more difficult. Palo Verde Generating Station, the single largest non-carbon emitting resource in the state, could be adversely affected by retail competition. We have seen other states struggle to properly value nuclear resources for the benefits they bring to clean energy goals as round-the-clock emissions-free generators. As a result, nuclear plants have been closing in retail choice states as they struggle to compete with natural gas. Further, there could be implications to how, from whom, or even if utilities would continue to purchase power from behind-the-meter generation. And there could be far-reaching implications for the ability of utilities to make substantial investments in new clean generation, storage and other innovative measures.

APS has highlighted a few of the issues associated with this complex topic in this docket. There are a host of other issues that would have to be addressed by the Commission including stranded cost recovery, provider of last resort, residential customer impacts, cost shifts between customer classes and resource adequacy, to name a few.

Clearly, considerable work involving many stakeholders is necessary to address these and other considerations. Arizona enjoys many benefits from the current system, and all customers enjoy the benefits of recent wholesale market innovations. The Draft Rules would present a stark alternative between those approaches and a system of re-regulation that cedes Commission authority to other states and the federal government. We strongly encourage the Commission to reflect on the stable, reliable and increasingly clean framework for the provision of electric service that exists in the state today, much of it attributable to the Commission itself, before moving too quickly down an alternative path. That said, we look forward to continuing the retail electric competition discussion at the Commission-hosted energy workshop on July 30.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara Lockwood', with a stylized flourish extending from the end.

Barbara Lockwood
BL/bgs